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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/606,008

06/25/2003

Bernd Schessl

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07/18/2007

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

07/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,008

Applicant(s)

SCHESSL ET AL.

Examiner

James O. Hansen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The proposed replacement sheet of drawings was received on April 23, 2007. Accordingly, the replacement sheet of drawings has been approved by the examiner for examination purposes.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8, 10 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO publication 98/33426 [known hereafter as WO`426]. WO`426 (see figures) teaches of a dishwashing machine comprising: a dishwashing machine housing (fig. 8) having an internal height; a pair of retractable pull-out upper and lower containers (202a, 202b) mounted one above the other in the housing; each of the containers containing a dishwashing system [see disclosure]; and the containers have a total height less than the internal height of the housing as readily apparent to the examiner (note fig. 7). As to claim 10, the containers having different heights (fig. 7). As to claim 11, the upper container having a height greater than the height of the lower container (fig. 7).

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 & 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO`426 in view of German publication 3501364 [known hereafter as DE`364]. WO`426 teaches applicant's inventive claimed structure as disclosed above; including the housing having a pair of opposed sides (207) and a base (206), the containers having front pieces (viewed as the container front panels -shown in fig. 7) located between the sides with the containers located above the base, base panel (62) set back the depth of a pedestal recess (clearly shown in fig. 7 at the bottom front of the housing), and arguably "means" (see figure 24) between the machine and a surface; WO`426 does show the housing as including "means" for maintaining the base of the housing above the surface on which the machine is to be supported, but does not specifically disclose the "means" as including two pairs of adjustable feet. DE`364 (figures 1-3) is cited as an evidence reference to show that it was known in the art to incorporate two pairs of adjustable feet (2) to an appliance housing. Accordingly, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize four adjustable feet (two in the front and two in the rear) as taught by DE`364 because this arrangement provides the means to establish a level appliance housing and serves to compensate for minor irregularities [height differences] that may be present in the supporting floor surface.

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6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO`426 and DE`364 in view of Borgen [U.S. Patent No. 4,818,043]. The combined prior art teaches applicant's inventive claimed structure as disclosed above, with the position being taken that the feet would inherently be "set back" on the housing from the front of the machine at least as far as the depth of the recess since there are no provisions for the feet to be mounted forward of the recess i.e., the feet would be mounted to the base, with both pairs of installation feet disposed below the base of the housing (again, note fig. 24), and the base panel being set back on the housing from the front of the machine at a depth less than a depth of the pairs of feet as clearly evident when viewing the prior art reference as a whole a (figs. 7 & 24 for example); but the combined prior art does not show the base panel as having a height substantially that of the height of the pair of installation feet below the base of the housing. Borgen (figures 1-9) is cited as an evidence reference to show that it was known in the cabinet art to incorporate a base panel (105) having a height substantially that of the height of front and rear installation feet (fig. 5) below a base (22) of a cabinet housing (10). As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the machine of the prior art in view of Borgen's teaching because this arrangement would effectively conceal the installation feet of the machine when viewed by a user from a frontal perspective. The prior art when combined would teach the bottom edge of the back portion of each opposed side of the housing as having a height above the surface on which the machine is supported such that the bottom edge of the back portion of each of the opposed sides does not contact and is not supported directly on the surface.

Response to Arguments

7. Applicant's arguments filed April 23, 2007 have been fully considered but they are not persuasive. As to the anticipatory rejection of claims 8, 10 & 11, the position is taken that the rejection as set forth above adequately addresses all the claimed limitations, whereas applicant's arguments do not clearly point out the patentable novelty which applicant thinks the claims present in view of the state of the art disclosed by the cited reference.

8. In regards to the obviousness-type rejection, the position is taken that these rejections do address the deficient features as remarked by applicant since WO`426 does show a base and sides of the machine being elevated above a surface (fig. 24) with "means" [viewed as feet] supporting the machine above the surface, wherein DE`364 is an evidence reference showing that feet for supporting a machine are adjustable for the purpose of leveling the machine relative to the surface. As to amended claim 15, the position is taken that the prior art combination as set forth in the action adequately teaches the claimed limitations with the evidentiary reference to Borgen showing the known use of a kick plate mounted below a base of a cabinet and above the surface upon which the cabinet is supported via front and rear feet [the plate having a height substantially that of the height of the feet], with the plate covering the gap between the supporting surface and the bottom of the base.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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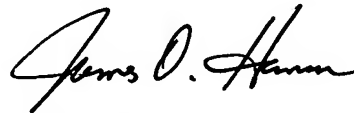
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

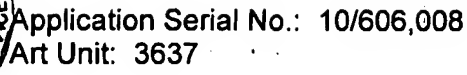
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
July 16, 2007



Approved for examination purposes
Feb 7/10/07

